

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

THE COUNTY COMMISSION OF
FAYETTE COUNTY, WEST VIRGINIA,
Ex Rel. ANTHONY CILIBERTI, ESQ.,
Fayette County Prosecuting Attorney,

Plaintiffs,

v.

CIVIL ACTION NO. 2:22-cv-00441
*(Consolidated with Civil Action Nos.:
2:23-cv-00142 & 2:23-cv-00205)*

GADSDEN, GAILLARD, AND WEST, LLC,
a South Carolina Limited Liability Company,
and DENNIS EUGENE WEST, *an Individual
and Resident of South Carolina,*

Defendants.

ORDER


The Court has reviewed the Kees Plaintiffs’ *Motion to Reinstate Case with Integrated Motion to Enforce Settlement Agreement* (Document 80). The Court entered an *Order of Dismissal* (Document 27 in 2:23-cv-205) in this matter on November 3, 2023 based on a mediation report indicating that these Plaintiffs had reached a settlement. On November 6, 2023, the Court entered an order asking the parties to verify whether a related pending crossclaim and third-party claim could be dismissed as well. Defendant Innospec responded that “the settlement involving the Kees Plaintiffs as contemplated by the parties at the mediation, has not been able to be completed because a critical element of the settlement agreement is no longer met.” (Document 73.) The Kees Plaintiffs state that they reached a confidential final settlement agreement during

mediation on September 11, 2023, and the “settling Defendants have failed to abide by the terms of the confidential settlement agreement and now refuse to pay the agreed upon sum of money to the Kees Plaintiffs.” (Document 80.)

The Kees Plaintiffs request that the matter be reinstated and argue that they are “entitled to enforcement of the terms of the good faith settlement reached at mediation.” (Document 80.)¹ Upon careful consideration, the Court **ORDERS** that the *Motion to Reinstate Case with Integrated Motion to Enforce Settlement Agreement* (Document 80) be **GRANTED** to the extent it seeks reinstatement. The Court further **ORDERS** that the *Order of Dismissal* (Document 27 in 2:23-cv-205) be **VACATED** and that this matter be returned to the Court’s active docket.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and to any unrepresented party.

ENTER: November 15, 2023


IRENE C. BERGER
UNITED STATES DISTRICT JUDGE
SOUTHERN DISTRICT OF WEST VIRGINIA

¹ The integrated motion to enforce settlement is not yet ripe for consideration without responsive briefing and submission of evidence.